

Message Text

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ACTION ARA-06

INFO OCT-01 SS-14 ISO-00 SAB-01 L-01 A-01 MMO-01 PER-01

ABF-01 CPR-01 OPR-01 /029 W

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R 131515Z APR 76 ZDK

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC 7378

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FOR WYROUGH, ARA/PAN, FROM BLACKEN

E.O. 11652: N/A

TAGS: PFOR, PN, PQ

SUBJECT: TREATY NEGOTIATIONS: PERSONNEL AND LEGAL STATUS OF
OTHER USG AGENCIES V-GORGAS MEMORIAL INSTITUTE

REF: PANAMA 1625

SUMMARY: GORGAS MEMORIAL INSTITUTE IS LEGALLY ORGANIZED
IN BOTH PANAMA AND US (CANAL ZONE) AS A PRIVATE,
NONPROFIT SCIENTIFIC ORGANIZATION PERFORMING RESEARCH
IN TROPICAL AND PREVENTIVE MEDICINE, RECEIVING THE
BULK OF ITS FUNDING BY SPECIAL ANNUAL APPROPRIATION OF
THE US CONGRESS THROUGH HEW/NIH, OR FROM CONTRACTS
AND RESEARCH GRANTS. LEGAL STATUS OF ORGANIZATION
AND ITS PERSONNEL IN THE REPUBLIC APPEAR COVERED
ADEQUATELY UNDER EXISTING GOP LEGISLATION AND CONTRACT
BETWEEN GORGAS AND MINISTRY OF HEALTH. THIS
MESSAGE PROVIDES DETAILED INFORMATION AS TO THE
PERSONNEL AND LEGAL STATUS OF GORGAS MEMORIAL, AND
CORRECTS CERTAIN INFORMATION AS TO ITS LANDS AND
WATERS USE REQUIREMENTS PROVIDED REFTEL. INFORMATION
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WAS PROVIDED INFORMALLY BY DIRECTOR OF GORGAS MEMORIAL

INSTITUTE, AND DOES NOT NECESSARILY REPRESENT FINAL
OR DEFINITIVE POSITION. END SUMMARY.

1. PERSONNEL: GORGAS MEMORIAL INSTITUTE RESIDENT
STAFF CURRENTLY INCLUDES 9 AMERICANS (4 SCIENTISTS AND
1 SUPPORT STAFF MEMBER WORKING NORMALLY IN CANAL ZONE AND
4 SCIENTISTS WORKING NORMALLY AT GORGAS MEMORIAL LABORATORY
IN REPUBLIC) AND APPROXIMATELY 110 PANAMANIAN LOCAL
EMPLOYEES (1 SCIENTIST AND 14 SUPPORT STAFF MEMBERS
WORKING NORMALLY IN CANAL ZONE AND REMAINDER, ALL SUPPORT
STAFF, WORKING NORMALLY IN REPUBLIC.) INSTITUTE CURRENTLY
EMPLOYES NO THIRD-COUNTRY NATIONALS, BUT IT HAS
DONE SO IN PAST AND MAY AGAIN IN FUTURE. NORMAL
PRACTICE FOR HIRE OF SCIENTISTS IS INITIAL TWO-YEAR
CONTRACT, AFTER WHICH SCIENTIST HAS EFFECTIVELY INDEFINITE
RENEWAL EXPECTATION; ONE SCIENTIST HAS BEEN AT
INSTITUTE FOR 40 YEARS. IN ADDITION, INSTITUTE NORMALLY
HAS TWO US NAVY OFFICERS ASSIGNED TO IT. ONE OF THESE
SUPERVISES A NAVAL OFFICER MEDICAL TRAINING PROGRAM
RUN BY INSTITUTE AND OTHER IS ASSIGNED FOR RESEARCH AND
TRAINING IN TROPICAL MEDICINE. NAVAL OFFICERS ARE
HOUSED AND SUPPORTED BY US NAVY IN CANAL ZONE, AND ARE
SITUATED AS ARE OTHER US MILITARY PERSONNEL THERE; DISCUSSION
BELOW THUS TAKES NO FURTHER ACCOUNT OF THESE PERSONNEL).
ONLY ONE AMERICAN EMPLOYEE (SUPPORT STAFF MEMBER NORMALLY
WORKING IN CANAL ZONE) IS RESIDENT IN CANAL ZONE; GORGAS
DOES NOT ANTICIPATE SEEKING CANAL ZONE RESIDENTIAL
ACCOMMODATION FOR ANY OF ITS EMPLOYEES AFTER THIS INDIVIDUAL
LEAVES. ALL OTHER AMERICAN AND LOCAL EMPLOYEES ARE
RESIDENT IN REPUBLIC, AND RECEIVED NO HOUSING ALLOWANCE.
INSTITUTE AS ORGANIZATION HAS OFFICIAL PURCHASE
PRIVILEGES IN US MILITARY COMMISSARY AND EXCHANGE
FACILITIES, NORMALLY USED TO PROCURE SUPPLIES FOR PERSONNEL
AT OUTLYING FIELD STATIONS, BUT INDIVIDUAL EMPLOYEES HAVE
NO SUCH MILITARY PRIVILEGES. CURRENTLY EMPLOYED
AMERICAN SCIENTISTS HAVE LIMITED (UP TO \$100) INDIVIDUAL
PANCANAL COMMISSARY PURCHASE PRIVILEGES, BUT BY AGREE-
MENT WITH PANCANAL NO NEW EMPLOYEES WILL BE GIVEN SUCH
PRIVILEGES. DEPENDENTS OF AMERICAN EMPLOYEES ATTEND
CANAL ZONE SCHOOLS ON TUITION BASIS, WITH NO EDUCATION
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ALLOWANCE. SO FAR AS GORGAS INSTITUTE DIRECTOR WAS
AWARD, THERE IS NO WRITTEN LAW OR REGULATION PROVIDING
THAT CANAL ZONE HEALTH SERVICES BE AVAILABLE TO
INSTITUTE PERSONNEL, BUT HE SAID THAT AVAIL-
ABILITY OF SUCH SERVICES IF NECESSARY AMOUNTED TO AN
"UNWRITTEN LAW" SINCE THE INSTITUTIONS WORK SO
CLOSELY TOGETHER; ONE INSTITUTE STAFF MEMBER HOLDS
AN APPOINTMENT AS PHYSICIAN AT GORGAS HOSPITAL.

INSTITUTE AS ORGANIZAION UTILIZES CANAL ZONE POSTAL SYSTEM; NON-US EMPLOYEES MAY UTILIZE THIS PRIVILEGE FOR OFFICIAL SCIENTIFIC BUSINESS, AND US EMPLOYEES MAY USE CANAL ZONE POSTAL SYSTEM FOR PERSONAL MAIL RECEIVED THROUGH INSTITUTE RATHER THAN INDIVIDUAL BOXES. IN REPUBLIC, ALL NON-PANAMANIAN INSTITUTE PERSONNEL ENJOY EXEMPTION FROM CUSTOMS DUTIES AND ALL FORMS OF DIRECT OR INDIRECT TAXATION, UNDER INSTITUTE'S CONTRACT WITH MINISTRY OF HEALTH. GOP PROVIDES ANNUAL RENEWAL OF RESIDENTIAL VISAS WITHOUT COST, EXCEPT FOR ONE AMERICAN WHO HAS OBTAINED FOREIGN RESIDENT'S "CEDULA" (GOP IDENTIFICATION DOCUMENT). OTHER THAN THIS AMERICANS POSSESS NO LEGAL OR OTHER IMMUNITIES IN REPUBLIC. LOCAL EMPLOYEES ENJOY NO SPECIAL STATUS UNDER CONTRACT.

2. VISITING SCIENTIFIC POPULATION: LIKE ANY SCIENTIFIC INSTITUTION, INSTITUTE IS REGULARLY HOST TO A FLUCTUATING NUMBER OF VISITING AMERICAN AND OTHER SCIENTISTS. UNDER INSTITUTE CONTRACT, PANAMA AFFORDS SUCH VISITORS FREEDOM OF ENTRY, PROVIDES VISAS OR OTHER DOCUMENTATION, AND PROVIDES EXEMPTION FROM TAXATION. OTHER THAN THIS, AND USE OF POSTAL SERVICES AT INSTITUTE, SUCH VISITING SCIENTISTS HAVE NO REQUIRED STATUS AND ARE NOT DISCUSSED FURTHER. ALSO IN THIS CATEGORY WOULD FALL US NAVAL OFFICERS PARTICIPATING IN TRAINING PROGRAMS IN TROPICAL MEDICINE DISCUSSED ABOVE. SUCH PERSONNEL ARE NORMALLY SERVICED FROM CANAL ZONE, AND MAY BE CONSIDERED AS EQUIVALENT TO OTHER CANAL ZONE-BSED US MILITARY PERSONNEL.

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3. PROJECTED PERSONEL: INSTITUTE ADVISES THAT, IN SHARP CONTRAST TO SITUATION EARLIER THIS YEAR WHEN ITS CONTINUED EXISTENCE WAS IN DOUBT, IT NOW FORESEES CONTINUATION AND MODERATE EXPANSION OF ITS OPERATIONS AND PERSONNEL IN PANAMA (FYI: DIRECTOR ADVISED THAT INSTITUED WAS SEEKING TO DIVERSIFY ITS SOURCES OF SUPPORT, AND SAID IT EXPECTED TO RECEIVE CONTRACT FUNDING FOR ECOLOGICAL STUDIES IN AREA OF PROPOSED LA FORTUNA HYDROELECTRIC PROJECT FROM WORLD BANK THROUGH GOP. END FYI). DIRECTOR FORESAW NO REQUIREMENTS FOR SPECIAL STATUS, CONSIDERATION OR PRIVILEGES FOR AMERICAN STAFF MEMBERS BEYOND THOSE NOW GENERALLY AVAILABLE. PERSONNEL WOULD APPRECIATE BEING ELIGIBLE TO SEND DEPENDENTS TO US SCHOOLS, ON TUITION BASIS, AS AT PRESENT. EXISTING "UNWRITTEN LAW" OF PROFESSIONAL COURTESY AND CLOSE ASSOOCIATION BETWEEN INSTITUTE AND GORGAS HOSPITAL, WITH CORRESPONDING AVAILABILITY OF HEALTH SERVICES, MIGHT CONTINUE UNDER NEW TREATY. INSTITUTE WOULD APPRECIATE CONTINUATION OF PURCHASE PRIVILEGES FOR OFFICAL BUSINESS IN US MILITARY COMMISSARIES AND EXCHANGES, ON BASIS THAT SINCE BULK OF ITS FUNDS ARE USG APPROPRIATED FUNDS IN ANY EVENT, IT WOULD BE OF BENEFIT TO USG TO CONTINUE AVAILABILITY OF LOWEST-COST SOURCE OF REQUIRED LIMITED OFFICIAL USE

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GOODS. INSTITUTE FORESEES NO REQUIREMENT FOR INDIVIDUAL PURCHASE PRIVILEGES FOR EMPLOYEES. IT WOULD APPRECIATE CONTINUATION OF ITS ABILITY AS ORGANIZATION TO SEND OFFICIAL MAIL VIA US MILITARY POSTAL FACILITIES, AND WOULD APPRECIATE UNDERSTANDING THAT AMERICAN STAFF MEMBERS MAY SEND AND RECEIVE PERSONAL MAIL IN THIS MANNER AS WELL, THROUGH INSTITUTE. INSTITUTE CONSIDERS THAT LEGAL AND RESIDENTIAL STATUS OF ITS PERSONNEL IS ADEQUATELY TREATED UNDER EXISTING LAW AND CONTRACTUAL RELATIONSHIP WITH GOP, AND THUS FORESEES NO REQUIREMENT FOR ANY SPECIAL ACTION IN THIS RESPECT.

4. LEGAL STATUS: GORGAS MEMORIAL INSTITUTE IS IN UNIQUE POSITION OF BEING ONLY CANAL ZONE "OTHER USG AGENCY" WHICH CURRENTLY HAS A LEGAL EXISTENCE IN REPUBLIC AS WELL. INSTITUTE WAS INCORPORATED IN DELEWARE ON 10/25/1921 AS A NONPROFIT SCIENTIFIC ORGANIZATION FOR PURPOSE OF PERFORMING RESEARCH IN TROPICAL AND PREVENTIVE MEDICINE, AND WAS LEGALLY ESTABLISHED IN SIMILAR

MANNER IN REPUBLIC OF PANAMA ON 12/6/1921.
ITS FUNDING CAME FOR YEARS THROUGH DEPARTMENT OF STATE,
AND CURRENTLY COMES THROUGH ANNUAL SPECIAL CONGRESSIONAL
APPROPRIATION FOR INSTITUTE MADE THROUGH HEW/NIH FOGGARTY
INTERNATIONAL CENTER. IN REPUBLIC, ITS STATUS WAS
FORMALIZED THROUGH CONTRADTUAL RELATIONSHIP WITH MINISTRY
OF HEALTH APPROVED BY NATIONAL ASSEMBLY IN 1952, UPDATED
BY LAW 84 OF SEPTEMBER 20, 1973 WHICH CONTINUED APPROVAL
OF EXISTING RELATIONSHIP AND ESTABLISHED CERTAIN ADDITIONAL
APPLICABLE PROVISIONS (E.G., EXEMPTION FOR INSTITUTE FROM
PROVISIONS OF GOP LABOR CODE AND FROM OTHER LABOR AND
SOCIAL WELFARE LEGISLATION). UNDER ITS CURRENT LEGAL
STATUS, INSITUTE OPERATES A MAIN HEADQUARTERS OFFICE,
LIBRARY AND LABORATORY BUILDING ADJACENT TO SANTO TOMAS
HOSPITAL IN PANAMA CITY, AND HOLDS A SMALL BIOLOGICAL
FIELD STATION IN THE BAYANO AREA UNDER 5-YEAR AGREEMENT
WITH BAYANO INTEGRATED DEVELOPMENT PROJECT.

5. PROJECTED LEGAL STATUS: INSTITUTE FORESEES
NO REAL NEED TO CHANGE ITS CURRENT LEGAL STATUS IN
REPUBLIC AN RELATIONSHIP WITH MINISTRY OF HEALTH, WHICH
IT DESCRIBES AS CLOSE AND COOPERATIVE. CURRENT
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CONTRACT APPEARS TO IMPOSE NO LEGAL BAR FROM PANAMA'S
SIDE ON CONTINUATION OF LIMITED ORGANIZATIONAL PRIVILEGES
WHICH INSTITUTE NOW ENJOYS IN CANAL ZONE (I.E., MILITARY
AND PANCANAL COMMISSARY AND EXCHANGE PURCHASE FOR
OFFICIAL PURPOSES, USE OF POSTAL SYSTEM BY ORGANIZATION),
SINCE CONTRACT AFFORDS INSTITUTE AND ITS PERSONNEL FREEDOM
OF CUSTOMS ENTRY AND FROM ALL OTHER TAXATION OR DUTIES.
ONLY EXCEPTION TO THIS APPLIES TO USE REGIME FOR
INSTITUTE ACTIVITIES IN CANAL ZONE (SEE BELOW).

6. ACTIVITIES IN CANAL ZONE: DURING MEETING,DIRECTOR
OF INSTITUTE PROVIDED SOME ADDITONAL AND CLARIFYING
INFORMATION RELATING TO INSTITUTE'S LIMITED CURRENT
ACTIVITIES IN CANAL ZONE RELEVANT TO LANDS AND WATERS
DISCUSSIONS, AS FOLLOWS:

A. JUAN MINA PLANTATION: PREVIOUSLY (REFTEL),
INSTITUE HAD ANTICIPATED THAT THIS 15-ACRE RESERVE
COULD BE CONSIDERED AS AREA OF ADMINISTRATIVE COORDI-
NATION. NOW, HOWEVER, DIRECTOR ADVISES THAT HE SEES
NO PARTICULAR REASON WHY LAND IN QUESTION COULD NOT
BE RETURNED IMMEDIATELY TO PANAMANIAN JURISDICTION.
HE FELT THAT LAND HAD LITTLE POTENTIAL UTILITY TO
PANAMA EXCEPT AS HAVEN FOR SQUATTERS, AND CONSIDERED
THAT INSTITUTE WOULD HAVE NO PROBLEM IN OBTAINING
EXCLUSIVE USE OF THIS LAND AREA, INCLUDING PROTECTION

FROM SQUATTERS, FROM GOP THROUGH MINISTRY OF HEALTH
IN SAME MANNER AS IT RECENTLY ACQUIRED USE OF ITS
FIELD STATION IN BAYANO. DIRECTOR NOTED THAT THIS
SHOULD BE CONSIDERED AD REFERENDUM UNTIL VISIT,
EXPECTED SHORTLY, OF PRESIDENT OF US CORPORATION,
BUT FELT THAT THIS WOULD BE FINAL INSTITUTE POSITION
AS WELL AND THAT WE COULD SO ASSUME FOR PLANNING
PURPOSES--HE IS GOING TO BEGIN INFORMAL INQUIRY WITH
APPROPRIATE GOP OFFICIALS TO ASCERTAIN WHETHER THERE
WILL BE ANY UNFORESEEN PROBLEM IN GETTING USE PERMIT
THAT WILL BE ALL THAT HE NEEDS.

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ACTION ARA-06

INFO OCT-01 SS-14 ISO-00 SAB-01 L-01 A-01 MMO-01 PER-01

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B. BUILDING 265, ANCON: THIS BUILDING HOUSES INSTITUTE'S
VIROLOGY LABORATORY, WHICH DIRECTOR ESTIMATED HAS A
FACILITY VALUE IN EXCESS OF \$20 MILLION, AND WHICH PERFORMS
SERVICES FOR REPUBLIC, FOR CANAL ZONE AUTHORITIES, FOR
OTHER LATIN GOVERNMENTS, AND FOR USG HEALTH AUTHORITIES IN
CASES INVOLVING TROPICAL DISEASES IN WHICH INSTITUTE HAS
PARTICULAR EXPERTISE. REFTTEL REPORTED THAT INSTITUTE EXPECTED
SHORTLY TO CONVERT FROM PRINCIPAL HOLDER OF THIS BUILDING
INTO A SUB-TENANT OF PANCANAL HEALTH BUREAU. DIRECTOR
ADVISES THAT THERE IS NOW A POSSIBILITY THAT INSTITUTE
WILL WISH TO RETAIN THE BUILDING ITSELF. IN ANY EVENT,
INSTITUTE WOULD LIKE TO HAVE ASSURANCE OF EFFECTIVELY

INDEFINITE USE OF THIS BUILDING AND ITS LABORATORY LOCATED IN IT, AND DIRECTOR INDICATED THAT HE FELT THAT ITS PROXIMITY TO GORGAS HOSPITAL AND OTHER PANCANAL FACILITIES, POSSIBLE CO-TENANCY BY OTHER USG AGENCIES, AND VALUE OF FACILITIES DICTATED A SPECIAL STATUS OF THIS FACILITY AS AN AREA OF ADMINISTRATIVE COORDINATION.

C. RESIDENCE BUILDING 0307, CABLE HEIGHTS, ANCON:
DIRECTOR APOLOGIZED FOR HAVING OMITTED REFERENCE TO THIS BUILDING DURING EARLIER CONVERSATION. IT SHOULD BE ADDED TO LIST OF FACILITIES USED BY INSTITUTE PROVIDED REFTEL. UNIT LIMITED OFFICIAL USE

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IS CURRENTLY USED AS PERMANENT RESIDENCE BY LONG-STANDING AMERICAN EMPLOYEE OF INSTITUTE WHO IS SOLE AMERICAN ADMINISTRATIVE SUPPORT STAFF MEMBER AND NORMALLY WORKS IN CANAL ZONE. BUILDING IS ALSO USED ON OCCASION TO PROVIDE TRANSIENT HOUSING FOR VISITING SCIENTISTS. DIRECTOR FORESAW NO REQUIREMENT FOR SUCH CANAL ZONE HOUSING FOR A REPLACEMENT FOR CURRENT INCUMBENT OF THIS POSITION AFTER LATTER DEPARTS, BUT SAID THAT IF POSSIBLE, INSTITUTE WOULD LIKE TO RETAIN USE OF THIS BUILDING TO PROVIDE TRANSIENT QUARTERS FOR SCIENTIFIC PERSONNEL. EMBASSY OPINED INFORMALLY THAT STATUS OF THIS BUILDING WOULD PROBABLY BE GUIDED BY STATUS OF SURROUNDING PANCANAL RESIDENTIAL UNITS; DIRECTOR STATED THAT CONTINUED INSTITUTE USE WAS NOT AN OPERATIONAL NECESSITY BUT WOULD BE A CONVENIENCE AND A SOURCE OF ECONOMY IF IT PROVED POSSIBLE. EMBASSY SAID WE WOULD PASS ALONG HIS REQUEST.

7. COMMENT: AT THIS TIME, WE CAN SEE NO REQUIREMENT FOR ACTION RELATIVE TO GORGAS MEMORIAL INSTITUTE. ITS LEGAL STATUS, AND THAT OF ITS PERSONNEL, APPEAR SATISFACTORILY TAKEN CARE OF AND NEED NO FURTHER ADJUSTMENT TO ENABLE INSTITUTE TO OPERATE PRETTY MUCH AS AT PRESENT UNDER A NEW TREATY ARRANGEMENT. INSTITUTE ABILITY TO SWITCH ITS REQUIREMENT FOR JUAN MINA PLANTATION FROM AREA OF ADMINISTRATIVE COORDINATION TO SIMPLE USE WHICH IT WOULD OBTAIN DIRECTLY FROM GOP REMOVES ONE MINOR ASPECT OF THIS SET OF PROBLEMS, WHICH IS WELCOME. WE WILL HAVE TO DEFINE INSTITUTE'S TENURE ON ITS VIROLOGY LAB IN BUILDING 265, BUT THIS SHOULD PROPERLY AWAIT VISIT OF ITS PRESIDENT LATER THIS SPRING, AND RESOLUTION OF WHETHER INSTITUTE WILL REVERT TO STATUS AS HEALTH BUREAU SUB-TENANT. IF IT RETAINS BUILDING ITSELF, WE REGARD IT AS PROBABLE THAT USE REGIME COULD BE APPROPRIATELY HANDLED THROUGH SIMPLE EXCHANGE OF NOTES CONCURRENT WITH ENTRY INTO FORCE OF NEW TREATY. END COMMENT.
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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NEGOTIATIONS, LEASES, GOVERNMENT AGENCIES
Control Number: n/a
Copy: SINGLE
Draft Date: 13 APR 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976PANAMA02572
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760140-0300
From: PANAMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760467/aaaacfw.tel
Line Count: 383
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: STADIS
Reference: 76 PANAMA 1625
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by MartinML>; APPROVED <02 NOV 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TREATY NEGOTIATIONS: PERSONNEL AND LEGAL STATUS OF OTHER USG AGENCIES V-GORGAS MEMORIAL INSTITUTE
TAGS: PFOR, PN, PQ, GORGAS MEMORIAL INSTITUTE
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006